

REMARKS

In the Office Action¹, the Examiner rejected claim 11 under 35 U.S.C. § 112, second paragraph; rejected claims 1-5 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,090,632 to Jeon et al. ("*Jeon*"); rejected claims 6-9 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,726,920 to Chen et al. ("*Chen*"); rejected claim 10 under 35 U.S.C. § 103(a) as being unpatentable over *Chen* in view of JP 2000-269108 A to Tamaki et al. ("*Tamaki*"); and rejected claim 11 under 35 U.S.C. § 103(a) as being unpatentable over *Jeon*².

By this Amendment, Applicants have amended claims 1, 6, 10 and 11. Claims 1-11 remain pending.

Regarding the rejection of claim 11 under 35 U.S.C. § 112, second paragraph, Applicants have amended claim 11 as suggested by the Examiner. Therefore, Applicants request that the Examiner withdraw the rejection of claim 11 under 35 U.S.C. § 112, second paragraph.

Applicants respectfully traverse the rejection of claims 1-5 under 35 U.S.C. § 102(b) as anticipated by *Jeon*. In order to properly establish that *Jeon* anticipates Applicants' claimed invention under 35 U.S.C. § 102, each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

² The Office Action states that claim 11 is rejected over '623. However, there is no '623 reference cited by the Examiner. Therefore, Applicants will address the rejection with the understanding that the Examiner incorrectly typed '623 and should have type '632, which corresponds to the *Jeon* reference.

shown in as complete detail as is contained in the ... claim.” See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Claim 1 recites a method comprising, for example:

...
a continuity determination step of determining whether or not defective determination is made more than once when said processed state has been determined to be defective through said processing state determination step; and

a processing control step of controlling processing such that processing of said member continuously performed through said processing step is stopped when a defective determination is determined to have been made more than once through said continuity determination step,

wherein the processing step is not stopped when a defective determination is rendered once.

(emphasis added). *Jeon* does not disclose each and every element of Applicants' claimed invention.

Jeon discloses “a method for controlling semiconductor processing equipment in real time” (col. 2, lines 11-12). In *Jeon*, if the measured characteristic values are not “in the range of the optimal values, the product is defective. . . . In this case, in step S30, subsequent processing on the failed product is stopped . . .” (col. 4, lines 37-41). Therefore, according to *Jeon*, the processing stops when the first set of values indicates a defect. A single defective reading halts processing.

In contrast, according to claim 1, “the processing step is not stopped when a defective determination is rendered once.” Rather, the processing step is stopped “when a defective determination is determined to have been made more than once through said continuity determination step.” *Jeon* does not teach or suggest the

claimed combination of elements including “a processing control step of controlling processing such that processing of said member continuously performed through said processing step is stopped when a defective determination is determined to have been made more than once through said continuity determination step, wherein the processing step is not stopped when a defective determination is rendered once,” as recited in claim 1.

Accordingly, *Jeon* cannot anticipate claim 1. Thus, claim 1 is allowable for at least these reasons, and claims 2-5 are also allowable at least due to their depending from claim 1.

Applicants respectfully traverse the rejection of claims 6-9 under 35 U.S.C. § 102(b) as anticipated by *Chen*.

Claim 6 recites a system including, for example:

...
a continuity determination section for determining whether or not a defective determination is made more than once when said processed state is determined to be defective by said processed state determination section; and

a processing control section for controlling processing so as to stop processing of said member continuously performed by said processing section when said continuity determination section determines that said defective determination is made more than once,

wherein the processing step is not stopped when a defective determination is rendered once.

(emphasis added). *Chen* does not disclose each and every element of Applicants' claimed invention.

Chen discloses “a system for determining quickly and with a fair degree of accuracy whether unusual numbers of failures are occurring at final water sort testing” (col. 3, lines 57-60). *Chen* discloses a database computer 150 that “can use data

gathered over time from various sources (125, 125') to determine that an excessive number of failures are being detected" (col. 9, lines 8-10).

However, *Chen* does not teach or suggest the claimed combination of elements including "a processing control section for controlling processing so as to stop processing of said member continuously performed by said processing section when said continuity determination section determines that said defective determination is made more than once, wherein the processing step is not stopped when a defective determination is rendered once," as recited in claim 1.

Accordingly, *Chen* cannot anticipate claim 6. Thus, claim 6 is allowable for at least these reasons, and claims 7-9 are also allowable at least due to their depending from claim 6.

Regarding the rejection of claim 10, dependent from claim 6, the Examiner relies on *Tamaki* for allegedly disclosing "a management system for a semiconductor fabrication device" (Office Action at page 7). Even assuming this allegation is correct, which Applicants do not concede, *Tamaki* fails to cure the deficiencies of *Chen* discussed above. *Tamaki* discloses "a management system capable of analyzing the cause of outbreak of failures" (Abstract). *Tamaki* does not teach or suggest the claimed combination of elements including "a processing control section for controlling processing so as to stop processing of said member continuously performed by said processing section when said continuity determination section determines that said defective determination is made more than once, wherein the processing step is not stopped when a defective determination is rendered once," as recited in claim 6, and required by dependent claim 10.

Therefore, no *prima facie* case of obviousness has been established, and claim 10 is also allowable over *Chen* and *Tamaki* for at least the same reasons as claim 6.

Regarding the rejection of claim 11, Applicants respectfully request that the Examiner reconsider and withdraw the rejection because a *prima facie* case of obviousness has not been established with respect to claim 11. As previously stated, *Jeon* does not teach or suggest the claimed combination of elements including “a processing control step of controlling processing such that processing of said member continuously performed through said processing step is stopped when a defective determination is determined to have been made more than once through said continuity determination step, wherein the processing step is not stopped when a defective determination is rendered once.” Therefore, *Jeon* does not teach or suggest the claimed combination of elements, including “a processing control step of controlling processing such that processing of said member continuously performed through said processing step is stopped when a defective determination is determined to have been made more than once through said processing section, wherein the processing is not stopped when a defective determination is rendered once,” as recited in claim 11.

Accordingly, *Jeon* fails to establish a *prima facie* case of obviousness with respect to claim 11, at least because the reference fails to teach each and every element of the claim. Claim 11 is thus allowable.

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Customer No. 22,852
Attorney Docket No. 03327.2333-00
Application No. 10/539,246

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 6, 2007

By: /David W. Hill/
David W. Hill
Reg. No. 28,220